IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8703 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIMLABEN B RAJVADI

Versus

DIRECTOR OF PRIMARY EDUCATION

Appearance:

MR MUKUL SINHA for Petitioners

MR PREMAL JOSHI, AGP for Respondent No. 1 & 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 26/04/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the Principal and other employees of Vocational Training College, a grant-in-aid institution run by the Church of Brethren General Board, Ankleshwar had prayed for a writ of mandamus to direct the Director of Primary Education, Gujarat State and the District Education Officer, Bharuch to release the salaries of the petitioners for the period from May 1989 onwards and thereafter to make regular payment of salary to the

petitioners.

2. It is stated in the petition that because of certain irregularities committed by the trustees, the authorities had suspended the recognition of the institution for a period of two years. That period came to be reduced to one year. However, for a part of the period of suspension of recognition, the petitioners were not paid any salary except the salary for the month of October, 1989. The petitioners, therefore, filed the present petition.

3. Mr Premal Joshi, learned AGP appearing for respondent Nos. 1 and 2 states on the basis of the parawise instructions dated 19.2.1991 from the Office of the District Education Officer, Bharuch that the petitioners were paid salary for the period from May 1989 to 21.9.1990 on 21.1.1991 and that, therefore, the petitioners' grievance was already redressed. Mr Joshi further submits that the suspension of recognition was required to be resorted to as there were certain irregularities in the matter of granting admission to the first year course run by the institution and also on account of internal disputes amongst the trustees and that, therefore, the employees were not held responsible but certainly the management was responsible for the situation. Hence, the respondents authorities reserve their right and power to recover such amount of salary paid to the employees during the period of suspension of recognition from the grant otherwise payable to respondent No. 3.

4. In view of the fact that the petitioners were paid salary for the period from May 1989 to 21.9.1990, the grievance made in the petition obviously does not survive. As regards the contention of learned AGP Mr Joshi that respondent Nos. 1 and 2 are entitled to recover the said amount of salary from the grant payable to respondent No. 3 institution, this Court is not required to go into the said question in the present proceedings. The Court does not express any opinion either way.

5. The petition is accordingly disposed of as having become infructuous. Rule is discharged with no order as to costs.

April 26, 2000 (M.S. Shah, J.)
sundar/-